

UNITED STATES BANKRUPTCY  
COURT  
NORTHERN DISTRICT OF CALIFORNIA

GLORIA L. FRANKLIN  
CLERK OF COURT

TELEPHONE: (415) 268-  
2300



July 1, 2005

**ADMINISTRATIVE PROCEDURES FOR ELECTRONIC CASE FILING**

1. Establishment of Electronic Case Filing Procedures: As authorized by this Court's CM/ECF Interim Operating Order, effective July 1, 2003 and as amended on July 1, 2005 (Amended Operating Order), these "Administrative Procedures for Electronic Case Filing" (ECF Procedures) have been established by the Clerk of Court for the United States Bankruptcy Court, Northern District of California. Modifications to these ECF Procedures may be made after conferring with the Chief Bankruptcy Judge or his designee. Advance notice of all modifications to these ECF Procedures will be given via the Court's website at: [www.canb.uscourts.gov](http://www.canb.uscourts.gov).
2. Scope of Electronic Filing - Mandatory Requirement for Attorneys to File Electronically via CM/ECF: All attorneys practicing in the U.S. Bankruptcy Court for the Northern District of California, including attorneys admitted pro hac vice, are required to file all documents (including new bankruptcy case petitions but excluding documents to be placed under seal in accordance with § 7 of the *Amended Operating Order*) electronically via the CM/ECF system. Attorneys must also comply with the 'Chambers Copy Requirements and Division Procedures for ECF,' posted on the Court's web site [www.canb.uscourts.gov](http://www.canb.uscourts.gov).

Any document required to be filed electronically in accordance with subsection 2a of the *Amended Operating Order* but presented by an attorney in paper form shall be accompanied by the appropriate division of the Court's form of application for an exemption from this rule or a previous order granting an exemption that is still in effect. Said application shall state the reason(s) why exemption is requested. More detailed information may be obtained from *Instructions for Seeking Exemption from Electronic Filing* posted to the Courts' web site at: [www.canb.uscourts.gov](http://www.canb.uscourts.gov). In the event that the Court denies such application, the Court may also, in its discretion, order the document stricken, or impose such other conditions on the filing as the Court deems proper to preclude future violations.

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Any attorney who files a document in violation of § 2 of the *Amended Operating Order*, including documents that are not accompanied by an application that alleges an extreme hardship that is colorable and reasonable or a previous order granting an exemption that is still in effect, may be subject to monetary or non-monetary sanctions pursuant to Local Bankruptcy Rule 9011-1.

The official file in all divisions shall be the electronic file. All documents filed in all pending cases, but not filed electronically, will be scanned into the ECF System. These documents will only be accessible electronically. However, documents previously filed in paper form prior to January 1, 2005, will not be scanned into the ECF System, and the official file with respect to these documents shall remain the paper file.

On a given day, the documents scanned by Clerk's Office staff will be arranged by file date in a *day-file bin* and held for a period of five days by the Clerk's Office. Parties and attorneys who wish to retrieve the original paper documents they filed may visit or send a representative to the respective divisional office to locate the documents from the *day files* for retrieval.

3. Electronic Filing of Documents: Registered Participants shall use a court-issued login and password to access the CM/ECF system. Their use of this login and password will allow them to make entries to the official court docket and to file documents electronically with the Court. When a Registered Participant makes an entry to the docket and files documents electronically, the CM/ECF system will automatically generate and send a return e-mail message of the "Notification of Electronic Filing." This Notification of Electronic Filing is equivalent to the conformed copy traditionally stamped "Filed" or "Original Filed." All Registered Participants are highly encouraged to retain the "Notification of Electronic Filing" as proof of electronic filing.
4. Logins and Passwords: The Clerk's Office will post on the Court's web site a CM/ECF training class schedule. Attorneys in good standing with the Court and trustees are encouraged to access the schedule and sign up to attend this training as soon as possible. This court-sponsored CM/ECF training will be held on specified dates in San Francisco, Oakland, San Jose and Santa Rosa. Attorneys and trustees who practice in multiple locations may attend training at the location of their preference. Attorneys and trustees who practice primarily or exclusively in one location are encouraged, but not required, to attend training at that location.

Attorneys and trustees may have up to three employees attend the court-sponsored CM/ECF training. (Exceptions to this policy for four or more employees to attend can be made by contacting the division manager at the location where the training is offered.) It is recommended that employees attend the training session with the attorney or trustee with whom they work.

To become a Registered Participant, attorneys and trustees shall complete and submit a registration form (available from the Court's web site). A training login and password will be provided to the Registered Participant at the training session. Once the Registered Participant has completed the assigned training homework (successfully filing to this Court's CM/ECF training data base), they will be issued a new password for the "live CM/ECF" database to begin filing with this court electronically. The Court may require Registered Participants to resubmit an executed registration form from time to time as terms and conditions for using CM/ECF change.

Attorneys and trustees must attend a court-sponsored training class at one of the four locations noted above to become a CM/ECF Registered Participant in this Court. Attorneys who can demonstrate that they have successfully filed electronically in the past six months with another U.S. Bankruptcy Court may apply to become Registered Participants in this district without having to attend the court-sponsored training. All requests must be made by submitting a completed registration form (available from the Court's web site). The request must identify the name and location of the court(s) where the electronic filings were made and must include copies of the system-generated "Notification of Electronic Filings" reflecting the successful filings. The completed request "package" shall be sent via e-mail to the CM/ECF Help Desk at: [helpdesk@canb.uscourts.gov](mailto:helpdesk@canb.uscourts.gov) ("Request Training Waiver" in the e-mail subject line). All such requests to obtain a CM/ECF system login and password and to waive court-sponsored CM/ECF training are subject to review and approval by the Clerk of Court.

Only attorneys in good standing with the Court and trustees, and such others as the Court deems appropriate, will be issued system logins and passwords. Any password issued for electronic filing shall be used exclusively by the Registered Participant to whom the password is assigned or by an employee(s) of such person to whom proper authorization has been given by the Registered Participant. No Registered Participant shall knowingly permit a password to be used by anyone who is not authorized to use the password and no person shall knowingly use the password of

a Registered Participant unless such person is so authorized. If an employee of a Registered Participant is no longer permitted such access or if the Registered Participant has reason to believe that the security of his or her password has been compromised, the Registered Participant shall forthwith contact the CM/ECF Help Desk at the court's Information Technology Section, (415) 268-2350 to obtain a new password.

A Registered Participant may withdraw for cause or be required to withdraw from participation in the electronic filing component of CM/ECF on order of the Court. The Registered Participant shall provide a written notice of withdrawal to the CM/ECF Help Desk, at the address shown above. A court order to withdraw a Registered Participant will be sent by the judicial officer to the CM/ECF Help Desk. Upon receipt of the written request or court order, the Help Desk staff will follow internal procedures to cause the Registered Participant's login and password to be cancelled, and the Registered Participant will be removed from the Notification of Electronic Filing service list(s).

5. Orders: Any order filed electronically by the Court has the same force and effect as it would if the judge had affixed the judge's signature to a paper copy of the order, and it had been entered on the docket in a conventional manner.

Registered Participants are directed to the *Chambers' Copy Requirement and Division Procedures*, which is located in the *Reference Desk* section of the CM/ECF webpage, for specific directions regarding the submission of proposed forms of orders (submitted orders) for each Judge.

6. Exhibits and Attachments: Transmission time for filing documents created by scanning that are more than 25 pages and/or three megabytes in size will frequently time out and fail to file due to system security features. Electronic exhibits and attachments created by scanning (imaging) that are more than 25 pages or more than three megabytes in size must be segmented and filed as multiple attachments (the system will allow multiple attachments to any pleading/document to be filed electronically). All pleadings/documents and attachments/exhibits which are created by scanning (imaging) shall be black and white (without color), in PDF format and the resolution ***should not exceed 200 DPI.***
7. Documents Filed Under Seal: A motion to file a document(s) under seal shall be filed electronically; however the actual document(s) to be sealed shall be filed

conventionally, on paper, in accordance with Local Rule 79-5. If the motion itself contains confidential information, the movant shall electronically file and serve a redacted version of the motion to file under seal. The movant shall deliver paper copies of the document(s) to be sealed to the Clerk's Office at the divisional office of the assigned judge for *in camera* review. The order of the court authorizing the filing of such document(s) under seal shall be entered by the Court or the Clerk's Office staff and shall indicate that the motion to file document(s) under seal has been so granted. The conventionally filed paper copy of the sealed document(s) will be maintained by the Clerk's Office in a manner consistent with the Local Rule 79-5(e).

8. Signature and Verified Pleadings: The electronic filing of a pleading/document purportedly signed by the Registered Participant constitutes that person's signature under FRBP 9011 as well as any other applicable rules or statutes. Each electronically filed document shall bear the typed name of the person purporting to have signed the document.

Pleadings, including but not limited to petitions, lists, schedules and amendments that are required to be verified under FRBP 1008 or to contain an unsworn declaration as provided in 28 U.S.C. 1746, and all affidavits or other pleadings in which a person verifies, certifies, affirms or swears under oath or penalty of perjury concerning the truth of matters set forth in that pleading or document ("Verified Pleading") may be filed electronically. A Registered Participant filing a Verified Pleading electronically shall insure that the electronic version conforms to the original, signed pleading/document. Each signature on the original, signed pleading/document shall be indicated on the electronically filed Verified Pleading with the typed name of the person purported to have signed the pleading/document. The electronic filing of a Verified Pleading constitutes a representation by the Registered Participant who files it that the Registered Participant has in his or her possession at the time of filing the fully executed original, signed pleading/document.

9. Retention Requirements: All originally executed pleadings/documents signed by someone other than the Registered Participant (e.g., Verified Pleadings), which are subsequently electronically filed with the Court, must be retained by the Registered Participant for five years after the case or adversary proceeding has been closed. The CM/ECF system provides notice of all case closings to Registered Participants. Upon request of the Court, the Registered Participant filer must provide to the Court the original, signed pleadings/documents for review.

10. Notice of Electronic Filing and Service: All Registered Participants shall maintain a current and active e-mail address with the court to receive Notification of Electronic Filing. Whenever a pleading/document is filed electronically in accordance with these ECF Procedures, the system will automatically generate the Notification of Electronic Filing by electronic means at the time of docketing. Transmission of the Notification of Electronic Filing by the Clerk to a Registered Participant shall constitute effective service of all papers and notices governed by Federal Rules of Bankruptcy Procedure 7005 (incorporating Federal Rules of Civil Procedure 5) and Federal Rule of Bankruptcy Procedure 9022, consistent with Local Bankruptcy Rule 9013-3(c). Service of papers governed by Federal Rules of Civil Procedure 5, including answers to complaints, motions in adversary proceedings, responses to motions, et cetera is governed by Local Bankruptcy Rule 9013-3(c). Service of initiating pleadings, such as the summons and complaint in an adversary proceeding or a motion for stay relief or other contested matters, is not governed by Local Bankruptcy Rule 9013-3(c) and must still be made by first class mail. To enable proper service via the transmission of the Notice of Electronic Filing in pending cases, Registered Participants shall not withdraw their e-mail address from any case or de-activate their e-mail account while involved in any adversary proceeding or contested matter without prior notification to the Clerk's Office of their new e-mail address.
11. Technical Failure: The Clerk's Office shall deem the U.S. Bankruptcy Court for the Northern District of California's CM/ECF site to be subject to technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than two hours after 9:00 a.m. that day. A filing party whose filing is made untimely as the result of a technical failure of the court's CM/ECF site may seek appropriate relief from the Court.

Problems occurring on the filer's end, including those related to phone lines, Internet Service Providers (ISP) or hardware and software, will not constitute a technical failure under these procedures nor excuse an untimely filing. A filer who cannot file a pleading/document electronically because of a problem on the filer's end must file the pleading/document conventionally or by facsimile pursuant to Local Rule 5-5.
12. Fees: For filings that require a fee, the CM/ECF system will prompt the filer (Registered Participant) to enter credit card information (card number and expiration

date) and the payment amount following the transaction. "Credit Card Authorization Forms" are no longer required by the Court for CM/ECF credit card transactions. The credit card receipt shall include a reference to the case and docket number. Funds will be automatically charged to the card holder's account by the United States Treasury Department. All credit card filing fee payments are subject to audit and review by Clerk's Office staff. Any identified discrepancy will be brought to the attention of the filer (Registered Participant).

The CM/ECF system will automatically disable access for Registered Participants with filing fees outstanding at midnight of the filing date. The Registered Participant whose access to CM/ECF has been disabled will be able to log in to CM/ECF but will not be able to view or file any documents until he or she clicks on the "Utilities" then "Internet Payments Due" and pays the outstanding fees. Once the outstanding fees are paid, the Registered Participant's system's access to file and view electronic documents will be immediately reinstated. Payments must be made within 24-hours or the case/matter is subject to dismissal/being stricken.

13. Summons in an Adversary Proceeding: To file an adversary proceeding, a Registered Participant shall electronically prepare the standard form 250B, "Summons and Notice of Scheduling Conference in an Adversary Proceeding" (Summons) or for the San Jose division, "Summons and Notice of Telephonic Status Conference or Summons and Notice of Status Conference" (Summons) and electronically file it as an attachment to the electronically filed Complaint. The Court shall continue to issue these Summons in the conventional, paper (hard copy) form. The deputy clerks will print a hard copy of the submitted Summons from the CM/ECF system and will issue and sign the Summons. This completed hard copy of the Summons, with a blank Certificate of Service on the reverse side, will be returned via first class mail to the filer (to be served in the conventional manner).

In the event an Alias Summons is required, the original hard copy unexecuted Summons (Summons issued but not served) shall be returned to the Clerk's Office, along with a hard copy proposed form of Alias Summons. The deputy clerk will issue and sign the hard copy Alias Summons and will send it via first class mail to the submitting party.

14. Pleadings/Documents to be Filed by Paper: The judge(s) at each divisional office (with the exception of the Santa Rosa division) have identified the pleadings/documents that *may not* be filed electronically and should only be filed with the Court in paper form. Registered Participants are directed to the *ECF Division Policies*, which is located in the *Reference Desk* section of the CM/ECF webpage, for specific information regarding the pleadings/documents that *may not* be filed electronically.
15. Corrections: Once a pleading/document is electronically filed and becomes part of the electronic record, corrections to the docket may be made only by the Clerk's Office staff. A pleading/document may be incorrectly filed as the result of e.g., posting the incorrect PDF file to a docket entry, selecting the incorrect document type from the menu selection, or entering the incorrect case number before the transaction is completed. The CM/ECF system will not permit a Registered Participant to withdraw an incorrectly filed document or to change the form of an incorrect docket entry once the transaction has been accepted. A registered participant shall not attempt to re-file a document incorrectly filed or docketed. Instead, as soon as possible after an electronic filing error is discovered, the registered participant should contact the Clerk's Office at the location where the case is pending and ask the Clerk's Office staff to make the correction. The Registered Participant should be prepared with the case number and document number for which the correction is being requested. If appropriate, the Clerk's Office staff will make an entry indicating that the pleading/document was filed in error. The Registered Participant will be advised if the pleading/document will need to be re-filed.
16. CM/ECF System Unavailability: During the hour of 2:00 a.m. to 3:00 a.m. every day and for 24 hours on the third Saturday of every month, the Court's CM/ECF system will be unavailable to Registered Participants for filing due to with regular system maintenance and back-up operations. Any other downtime will be posted on both the CM/ECF home page and the Court's internet site. Registered Participants are instructed to ***not attempt*** to access this site during these periods of unavailability.
17. Access to CM/ECF via the Clerk's Office Lobby Terminals and PACER: Electronic access to CM/ECF dockets and documents electronically filed in the system is available to the public for viewing at no charge in each of the divisional offices during regular business hours. A fee for a paper copy of an electronic document is required in accordance with 28 U.S.C. Section 1930. In accordance with the ruling of the Judicial Conference of the United States, a user fee will be charged for access to dockets and



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documents electronically filed in the system through the Public Access to Court Electronic Records System (PACER).

18. Pro se Filing: For pro se litigants filing with this Court, all petitions/pleadings/documents shall be prepared and filed on paper. Pro se litigants shall not have access to electronic filing. After the designation of the electronic files as the official records for a particular division, all pro se paper filings shall be scanned by Clerk's Office staff to enable an electronic record to be created.